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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,662	05/19/2005	Mario Lanfranchi	2553-1027	7656
<small>465</small> YOUNG & THOMPSON 209 Madison Street Suite 500 ALEXANDRIA, VA 22314			<small>7590</small> EXAMINER GREENHUT, CHARLES N	
			<small>08/14/2008</small> ART UNIT 3652	PAPER NUMBER
			MAIL DATE 08/14/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/535,662

Applicant(s)

LANFRANCHI, MARIO

Examiner

CHARLES N. GREENHUT

Art Unit

3652

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/27/08.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

I Information Disclosure Statement

1. Applicants and/or applicants' attorneys in PCT related national applications may wish to cite the material citations from the PCT International Search Report by an information disclosure statement under 37 CFR 1.97 and 1.98 in order to ensure consideration by the examiner. MPEP 707.05
2. Applicant states that an IDS was included in the reply filed 5/27/08 however there is no record of this IDS in the application file.

II Specification

1. The specification, as amended by hand, employs terms which do not appear to be supported by the original disclosure. Applicant must establish support for the amendment in the priority document or cancel the amended language.
 - 1.1. since there is an issue of supported subject matter in the priority document (as raised by the ISA), and that priority document is not in English, Applicant is hereby required by the Examiner to establish support for the amendment by providing an English language translation of the priority document along with a statement that the translation of the certified copy is accurate. 37 CFR 1.55(a)(4).
2. A substitute specification (§ 1.125) is required under 37 CFR 1.52(c) since the application papers do not comply with paragraphs (a) and (b) of that section

III Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore,
 - 1.1. the cradling of the vessel of claim 1
 - 1.2. the emptying means of claim 1must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Figures 2 and 4 appear to be attempting to show motion without employing the conventional solid or hidden lines to show alternative positions. The movement of the device is therefore unascertainable.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not

accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

IV Claim Rejections - 35 USC § 112 and 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(1) The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

(6) An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of structure, material, or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof

1. Claims 1-10 are rejected under 35 U.S.C. 112, first and sixth paragraph as reciting an "emptying means" absent corresponding structure in the specification.
2. Claims 1-10 are rejected under 35 U.S.C. 112 first paragraph as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the vessel is cradled. It is unclear how the vessel is emptied.
3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Additionally, Claims 1-10 are rejected under 35 U.S.C. 101 because the claimed invention appears to be directed to more than one statutory class of subject matter.
 - 1.1. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. E.g., with respect to claim 1, it is unclear whether Applicant is attempting to claim a device intended to be used with an emptying device or if the emptying device is part of the claim for which protection is sought since features appear to relate to the emptying device itself. Furthermore, claim 1 appears to recite procedural steps within a claim that, based on the

preamble, is directed toward an apparatus rendering it unclear whether Applicant is attempting to claim a method or an apparatus.

Given the numerous rejections and objections to the claims, drawings and written description, further examination on the merits is precluded at this time.

V Response to Applicant Arguments

1. Applicant's remarks entered 5/27/08 have been fully considered
2. Applicant argues that, by way of the present amendment, the drawings are now acceptable. This argument is not persuasive for the reasons indicated above.
3. Applicant argues that, by way of the present amendment, claims 1-10 comply with 35 U.S.C. 112, first and sixth paragraph. This argument is not persuasive. Despite replacing "evacuation's means" with "emptying means" it remains unclear what structure exemplifies the "emptying means" as required by 35 U.S.C. 112, first and sixth paragraph as Applicant has not pointed to any such structure in these remarks.
4. Applicant argues that, by way of the present amendment, claims 1-10 comply with 35 U.S.C. 112, first paragraph. This argument is not persuasive. Applicant's response that, "The Applicants respectfully disagree. Figure 2 shows a front view of the device and figure 4 shows an additional view of a portion of the device of figure 2, The Figures taken with the Specification would allow one of ordinary skill in the art to practice the invention." amounts to a mere conclusory statement without pointing to any objective evidence showing how, based on the disclosure as originally filed, one of ordinary skill in the art would be able to make or use the invention.
5. Applicant argues that, by way of the present amendment, claims 1-10 comply with 35 U.S.C. 112, second paragraph. This argument is not persuasive. The present amendment has merely substituted 'evacuate' with 'empty', 'handle' with 'cradle', cancelled reference numerals and multiple dependencies but has not clarified the scope of the amended claims.

VI Conclusion

1. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
2. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the

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mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517. The examiner can normally be reached on 6:30am - 3:00pm EST.
4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached at (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.
5. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CG

/C. N. G./
Examiner, Art Unit 3652

/Saúl J. Rodríguez/
Supervisory Patent Examiner, Art Unit 3652